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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------|------------------|
| 10/502,039 | 01/24/2005 | Raimund Strobel | 60680-1948 | 2075 |
| 10291 7590 02/26/2007 RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE SUITE 140 BLOOMFIELD HILLS, MI 48304-0610 | | | EXAMINER MAPLES, JOHN S | |
| | | | ART UNIT 1745 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 02/26/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/502,039

Applicant(s)

STROBEL ET AL.

Examiner

John S. Maples

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 14-23 ~~is/are~~ are pending in the application.
- 4a) Of the above claim(s) 4, 14 and 15 ~~is/are~~ are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 16-23 ~~is/are~~ are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

1. Applicant's election with traverse of the election of species requirement in the reply filed on December 4, 2006 is acknowledged. The traversal is on the grounds that this is an improper restriction requirement. Applicant also argues that both claims 3 and 4 have the same technical feature found in claim 2. This is not found persuasive because first of all, the present species election is not a restriction requirement as applicant is arguing. The action dated November 3, 2006 is an election of species requirement. Secondly, even though claims 3 and 4 depend from claim 2, they independently in themselves comprise special technical features that are different from one another. As set forth in the previously mailed election of species requirement, embodiment 1 is an elastomer peripheral moulding of the frame and/or the inner part and embodiment 2 is bonded to the inner part and/or to the frame or is connected to the inner part and/or frame with a positive fit. These are two materially different configurations to connect the elastic element, comprising different technical features and thus properly subject to election of species requirement.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. (New Rejection)

First of all, it is noted that claim 3 depends on claim 2. Claim 3 sets forth "the elastic element is designed as an elastomer peripheral moulding of the frame and/or

inner part". This is incorrect terminology because claim 2 requires the elastic element belonging to the bipolar plate and thus the limitations in claim 3 can not include the elastic element being part of the frame.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 and 16-23 are rejected under 35 U.S.C. 102(b) as being anticipated by FR-2810795. ('795)

Reference is made to the English language translation of '795 which is attached hereto along with all of the drawing figures. As seen in the drawings, a bipolar plate for a fuel cell is taught which plate is surrounded by a frame 11 of thermoplastic material, which frame is elastically connected to the body of the bipolar plate 12. The frame is elastically connected to the body in two ways. The first is set forth in lines 14-17 of page 9 of the English translation where it states that the frame and body are secured. The second way is via the stud 34, as seen in Figure 2, which stud elastically couples the frame to the body. The body includes fuel and oxidant circulation channels 21S and 21I. Figure 4 of '795 depicts the seals in the bipolar plate wherein the frame includes the claimed passage openings 15 and 16 for the oxidant and fuel, which passages open toward the center. The bipolar plate also includes fastening means-holes in the periphery thereof as seen in Figure 4.

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Applicant's arguments have all been considered but are not deemed persuasive. Applicant argues that '795 does not teach the frame and inner part elastically coupled to one another. The examiner respectfully disagrees. Reference is made to the previous paragraph in this section for the two ways that the '795 reference sets forth the frame being elastically coupled to the inner part (bipolar plate or body).

Applicant argues the limitations set forth in claim 2, however these limitations have been addressed in the previous two paragraphs in this office action.

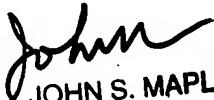
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 571-272-1287. The examiner can normally be reached on Monday-Thursday, 6:15-3:45, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSM/2-20-2007


JOHN S. MAPLES
PRIMARY EXAMINER